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in the frying pan; and snails, lobsters, and crabs are thrown into boiling water. Irrespective of the devious means that might be adopted to destroy life before these cruelties are perpetrated upon them, still no one has raised a voice in protest. * * * The Emperor Augustus nearly exterminated peacocks to regale himself in Rome with their brains. Today the world would hold their death unjustifiable. Then again juries and magistrates of different localities, race, or education, with varying ideas of taste and cuisine, may hold widely divergent ideas as to whether the improved flavor of lobsters boiled alive makes such torture 'justifiable.'" The court concludes that the question was for the jury. It is ordered that the captain be committed to the warden and keeper of the city prison until he give bail.

Note.—See Va. Code, § 3796a.

Payment under Mistake of Fact—Recovery of Money Paid by Mistake—Money Had and Received—Liability of Payee for Money Paid by Mistake.—*Baylis v. Bishop of London* (1912), 2 Ch. 318, is a case deserving of attention. A clergyman of the Church of England having been adjudicated bankrupt, on the application of the trustee in bankruptcy the Bishop of London made a sequestration whereby he appointed his secretary sequestrator of the bankrupt's benefice and directed him to collect and receive the emoluments thereof. Pursuant to this order the sequestrator demanded and received from the plaintiffs sum of money as tithe rent charge in respect of property of which they had been, but had ceased to be lessees. In forgetfulness of the fact that they had ceased to be lessees and were consequently no longer liable for the rent charge they paid it to the sequestrator, who duly accounted for it to the bishop, who, after paying thereout the stipend of the curate and other outgoings, handed over the balance to the trustee in bankruptcy. On behalf of the bishop it was contended that the mistake amounted to a mistake in law and, therefore, the action would not lie; and that even if the mistake were one of fact, the bishop being in effect in a similar position to a sheriff and having, in good faith and without notice, paid the money over to third parties was not liable; but Neville, J., held that the payment was made under a mistake of fact, and that the bishop was liable to refund it, and that he was in the position of a principal and not a mere agent.—*Canada Law Journal* for October, 1912.